

Adopted	Rejected
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COMMITTEE REPORT

YES:	9
NO:	0

MR. SPEAKER:

*Your Committee on Environmental Affairs, to which was referred Senate Bill 408, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 13-14-8-9 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) This section
- 4 applies to a variance ~~granted under section 8 of this chapter or~~
- 5 ~~IC 13-7-7-6 (before its repeal)~~ from a water quality standard that is at
- 6 least in part the basis of a National Pollutant Discharge Elimination
- 7 System permit issued under this title.
- 8 (b) **A variance may be granted under this section if the applicant**
- 9 **for the variance demonstrates that attaining the water quality**
- 10 **standard is not feasible because of at least one (1) of the following:**
- 11 (1) **Naturally occurring pollutant concentrations prevent the**
- 12 **attainment of the water quality standard.**
- 13 (2) **Natural, ephemeral, intermittent, or low flow conditions or**
- 14 **water levels prevent the attainment of the water quality**
- 15 **standard, unless these conditions may be compensated for by**
- 16 **the discharge of a sufficient volume of effluent to enable the**

1 **water quality standard to be met without violating state water**
 2 **conservation requirements.**

3 **(3) Conditions or sources of pollution caused by humans**
 4 **prevent the attainment of the water quality standard, and:**

5 **(A) the conditions or sources of pollution cannot be**
 6 **remedied; or**

7 **(B) correcting the conditions or sources of pollution would**
 8 **cause more environmental damage than leaving the**
 9 **conditions or sources of pollution in place.**

10 **(4) Dams, diversions, or other types of hydrologic**
 11 **modifications prevent the attainment of the water quality**
 12 **standard, and it is not feasible to:**

13 **(A) restore the water body to its original condition; or**

14 **(B) operate a modification in a way that would result in the**
 15 **attainment of the water quality standard.**

16 **(5) Physical conditions related to the natural features of the**
 17 **water body, including:**

18 **(A) the lack of a proper substrate cover;**

19 **(B) flow;**

20 **(C) depth;**

21 **(D) pools;**

22 **(E) riffles; or**

23 **(F) similar conditions;**

24 **that are unrelated to chemical water quality prevent the**
 25 **attainment of the water quality standard.**

26 **(6) Controls more stringent than those required by Section**
 27 **301(b) and Section 306 of the federal Clean Water Act:**

28 **(A) would be necessary to attain the water quality**
 29 **standard; and**

30 **(B) if implemented, would result in substantial and**
 31 **widespread economic and social impact.**

32 **(c) Except as provided in subsection ~~(c)~~; (e), a variance from a water**
 33 **quality standard of the water pollution control board under section 8 of**
 34 **this chapter or IC 13-7-7-6 (before its repeal) may be:**

35 **(1) granted for not more than five (5) years; and**

36 **(2) renewed for not more than five (5) years.**

37 **(d) Variances issued to dischargers within the Great Lakes**
 38 **system are subject to the following requirements:**

(1) A variance may not be issued under this section to a new or recommencing Great Lakes discharger, except in accordance with 327 IAC 2-1.5-17(a).

(2) A variance will not be issued that would likely jeopardize the continued existence of an endangered or a threatened species listed under Section 4 of the federal Endangered Species Act or result in the destruction or adverse modification of the species' critical habitat.

(3) A variance will not be granted if standards will be attained by implementing effluent limits required under Section 301(b) and Section 306 of the federal Clean Water Act and by the permittee implementing cost effective and reasonable best management practices for nonpoint source control.

~~(c)~~ (e) A variance ~~granted under section 8 of this chapter or IC 13-7-7-6 (before its repeal)~~ from a water quality standard that is at least in part the basis of a National Pollutant Discharge Elimination System permit:

(1) issued under this title; and

(2) extended under IC 13-15-3-6 or IC 13-7-10-2(e) (before its repeal);

remains in effect until the National Pollutant Discharge Elimination System permit expires.

SECTION 2. [EFFECTIVE UPON PASSAGE] (a) IC 13-14-9.5 concerning expiration of administrative rules does not apply to 326 IAC 6-4.

(b) The air pollution control board may not adopt a rule before July 1, 2002, that:

(1) replaces 326 IAC 6-4; or

- 1 **(2) primarily concerns fugitive dust.**
- 2 **(c) This SECTION expires July 1, 2002.**
- 3 **SECTION 3. An emergency is declared for this act.**
 (Reference is to SB 408 (printer's error) as printed February 7,
2001.)

and when so amended that said bill do pass.

Representative Weinzapfel